

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION

|                                  |   |                          |
|----------------------------------|---|--------------------------|
| RENEE SCHROEDER,                 | : |                          |
|                                  | : |                          |
| Plaintiff,                       | : | CIVIL ACTION             |
|                                  | : | FILE NO. 4:14-CV-130-HLM |
|                                  | : |                          |
| v.                               | : |                          |
|                                  | : |                          |
| CALEB GILBERT, in his individual | : |                          |
| capacity,                        | : |                          |
|                                  | : |                          |
| Defendant.                       | : |                          |

**ANSWER AND DEFENSES OF DEFENDANT CALEB GILBERT**

COMES NOW, Caleb Gilbert, officer with the City of Dunwoody Police Department, who, having been named as a Defendant in this action, hereby submits his Answer and Defenses to the Plaintiff's Complaint for Damages, showing the Court the following:

**FIRST DEFENSE**

The Plaintiff's Complaint fails to state a claim upon which relief may be granted.

**SECOND DEFENSE**

Plaintiff's federal claims are barred in whole or in part by the doctrine of

qualified immunity.

THIRD DEFENSE

To the extent that the Complaint sets forth claims under state law, said claims are barred by the doctrine of official immunity or discretionary immunity.

FOURTH DEFENSE

To the extent that the Complaint sets forth claims under state law, said claims are barred by the doctrine of official immunity or discretionary immunity.

FIFTH DEFENSE

To the extent that the Complaint seeks relief against Defendant in his official capacity, the same is barred under the doctrine of sovereign immunity.

SIXTH DEFENSE

Plaintiff's claims are barred by improper venue.

SEVENTH DEFENSE

To the extent that the Complaint sets forth claims under state law, said claims are barred for failure to comply with the provisions of O.C.G.A. § 36-33-5.

EIGHTH DEFENSE

There was actual and arguable probable cause for any and all actions or inactions on the part of Defendant with regard to Plaintiff, and Defendant at all times

acted in good faith and with the belief that his actions or inactions with regard to the Plaintiff were permissible, necessary, proper, and within the confines of the law.

NINTH DEFENSE

Defendant reserves the right to plead and prove such other defenses as may become known to him during the course of his investigation and discovery.

TENTH DEFENSE

In further response, and without waiving other defenses, Defendant Gilbert responds to the numbered allegations of the Plaintiff's Complaint for Damages as follows:

1.

For want of knowledge or information sufficient to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph 1 of the Complaint and the same are therefore denied.

2.

Defendant admits that he is a POST-certified City of Dunwoody police officer. The remaining allegations contained in paragraph 2 of the Complaint are denied as pled.

3.

The allegations contained in paragraph 3 of the Complaint are denied.

4.

The allegations contained in paragraph 4 of the Complaint are denied.

5.

The allegations contained in paragraph 5 of the Complaint are denied.

6.

The allegations contained in paragraph 6 of the Complaint are denied as pled.

7.

The allegations contained in paragraph 7 of the Complaint are denied as pled.

8.

The allegations contained in paragraph 8 of the Complaint are denied as pled.

9.

The allegations contained in paragraph 9 of the Complaint are denied as pled.

10.

The allegations contained in paragraph 10 of the Complaint are denied as pled.

11.

The allegations contained in paragraph 11 of the Complaint are denied as pled.

12.

The allegations contained in paragraph 12 of the Complaint are denied as pled.

13.

The allegations contained in paragraph 13 of the Complaint are denied as pled.

14.

The allegations contained in paragraph 14 of the Complaint are denied as pled.

15.

The allegations contained in paragraph 15 of the Complaint are denied as pled.

16.

The allegations contained in paragraph 16 of the Complaint are denied as pled.

17.

The allegations contained in paragraph 17 of the Complaint are denied.

18.

The allegations contained in paragraph 18 of the Complaint are denied as pled.

19.

The allegation contained in paragraph 19 of the Complaint is admitted.

20.

For want of knowledge or information sufficient to form a belief as to the truth

thereof, Defendant can neither admit nor deny the allegations contained in paragraph 20 of the Complaint and the same are therefore denied.

21.

For want of knowledge or information sufficient to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph 21 of the Complaint and the same are therefore denied.

22.

For want of knowledge or information sufficient to form a belief as to the truth thereof, Defendant can neither admit nor deny the allegations contained in paragraph 22 of the Complaint and the same are therefore denied.

23.

The allegations contained in paragraph 23 of the Complaint are denied.

24.

The allegation contained in paragraph 24 of the Complaint is admitted.

25.

The allegations contained in paragraph 25 of the Complaint are denied as pled.

26.

The allegations contained in paragraph 26 of the Complaint are denied as pled.

27.

The allegations contained in paragraph 27 of the Complaint are denied as pled.

28.

The allegations contained in paragraph 28 of the Complaint are denied.

29.

The allegations contained in paragraph 29 of the Complaint are denied.

30.

The allegations contained in paragraph 30 of the Complaint are denied.

31.

All allegations of the Complaint not specifically admitted or denied or otherwise fully responded to are hereby denied.

32.

Defendant denies the allegations contained in Plaintiff's Request for Relief, including subparts (a), (b), and (c), and specifically denies that the Plaintiff is entitled to any of the relief she seeks.

WHEREFORE, having fully answered the Plaintiff's Complaint for Damages, Defendant prays that the Complaint be dismissed with prejudice, that Defendant have judgment in his favor and against the Plaintiff, that he be awarded his costs and

attorney's fees associated with the defense of this action, that he have a trial by jury on all issues so triable, and for such other and further relief that this Court deems just and proper.

Respectfully submitted, this 18<sup>th</sup> day of July, 2014.

CAROTHERS & MITCHELL, LLC

/s/ Amy B. Cowan

RICHARD A. CAROTHERS

Georgia Bar No. 111075

AMY B. COWAN

Georgia Bar No. 159003

Attorneys for Defendant Caleb Gilbert

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(770) 932-3552



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|                                  | : |                          |
| Defendant.                       | : |                          |

**CERTIFICATE OF SERVICE AND COMPLIANCE WITH L.R.5.1B**

I HEREBY CERTIFY that I have this date electronically filed the within  
**ANSWER AND DEFENSES OF DEFENDANT CALEB GILBERT** with the  
Clerk of the Court using the CM/ECF system which will automatically send email  
notification of such filing to the following attorneys of record:

Jeffrey R. Filipovits, Esq.  
2900 Chamblee-Tucker Road  
Building 1  
Atlanta, GA 30341

I further certify pursuant to L.R. 7.1D that the above-titled document complies  
with L.R. 5.1B and was prepared using a 14 point Times New Roman font.

This 18<sup>th</sup> day of July, 2014.

/s/ Amy B. Cowan

AMY B. COWAN

Georgia Bar No.159003

Attorneys for Defendant Caleb Gilbert

CAROTHERS & MITCHELL, LLC

1809 Buford Highway

Buford, Georgia 30518

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